## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:15-CV-00464 D

ERIC J. WAGNER ,	)
Plaintiff,	)
v.	) ) ORDER
NANCY A. BERRYHILL, Acting Commissioner of Social Security,	)
Defendant.	)

Plaintiff's counsel filed a motion for approval of attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$ 10,513.75. Attorney's fees under section 206(b) are paid from past-due benefits awarded to a successful claimant. 42 U.S.C. § 406(b). Plaintiff has previously been awarded attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$ 4,679.50 (D.E. #41). Plaintiff has been previously awarded \$6,000.00 in administrative 406(a) fees.

Defendant filed a response, stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$10,513.75, and refund to Plaintiff the smaller award between this amount and the EAJA award.

SO ORDERED. This \_\_\_\_\_ day of June, 2017.

JAMES C. DEVER III

Chief United States District Judge